IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELFTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 7294 of 2002

Between:

Mekala Subbamma S/o M. Pedda Ganganna
R/o Somireddipalli Village, B.Matham Mandal,
Cuddapah District.

..... PETITIONER

AND

The Mandal Revenue Officer,
B. Matham Mandal, Cuddapah District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent in attempting to demolish the house of the Petitioner situated in 0-02 cents of land in Sy.No.320/1 of Somireddipalli Village, B. Matham Mandal of Cuddapah District, without issuing any notice for demolition and without following the due process of law, as illegal, unjust, arbitrary and against the principles of natural justice and also without any enquiry, against statutory provisions and also against Articles 14 of the Constitution of India and consequently direct the respondent not to demolish the house of the petitioner situated in 0-02 cents in Sy.No.320/1 of Somireddipalli Village in B.Matham Mandal of Cuddapah District.

Counsel for the Petitioner:MR.L.J.VEERA REDDY

Counsel for the Respondent No.: GP FOR REVENUE

The Court made the following :

ORAL ORDER:

This writ petition has been filed for a writ of Mandamus declaring the action of the respondent in attempting to demolish the house of the petitioner, situated over 0-02 cents of land in Sy.No.320/1 of Somireddipalli village, B. Matham Mandal, Cuddapah District, without issuing any notice, as illegal.

It is the case of the petitioner that she is a poor lady belonging to backward class and the present suit schedule property bearing Sy.No.320/1 over an extent of 0-02 cents of Vanka Poramboke land at Somireddipalli village in B. Matham Mandal, was given to her by the then Porumamilla Samithi, and ever since she has been in peaceful possession of the same for the past 30 years. When the petitioner started construction of a house, in place of the existing hut house, the respondent gave a notice dated 13.4.2002, not to proceed with the said construction work, on the ground that there is a civil dispute pending consideration before a competent civil court. It is further the case of the petitioner that the civil dispute pertains to 0-71 cents of land, out of Ac.4.70 in Sy.No.320/1 of the said village and that the land of the

petitioner does not fall within the disputed site. Further, there is a road in between her house and the disputed site. But it is the case of the respondent that the said land belongs to Konda Singarayya Swamy Temple. It is the case of the petitioner that the Trust Board of the said temple had constructed houses for the poor on the approval of the then temple authorities and there is no objection regarding her possession from the temple authorities. It is also the case of the petitioner that when the hut, in which she was residing, got collapsed, she had also taken the permission from the Gram Panchayat of Somireddipalli, who passed unanimous resolution on 1.4.2002, granting permission to raise constructions. Even the respondent himself has issued possession certificate in the name of the petitioner on 10.4.2002. When the respondent is trying to dispossess her by threatening to demolish her house, at the instance of the Ex-Sarpanch, she has preferred the present writ petition.

This writ petition was admitted on 6.6.2002 and an interim direction, not to demolish the house of the petitioner, was granted on 17.7.2002. Though the writ petition belongs to the year 2002, the respondent has not chosen to file any counter, so far.

I have perused the impugned urgent notice dated 13.4.2002 issued by the respondent-MRO. As seen from the same, it is evident that no details are forthcoming, except stating that on a complaint received from B. Matham Panchayat Secretary that the petitioner is taking up construction activity in S.No.320/1, over an extent of 0-71 cents, situated at Somireddipalli Gram Panchayat, the petitioner was informed not to take any further constructions as a civil dispute is pending. The particulars of the said civil dispute were not furnished to the petitioner, in order to

enable her, to give her explanation to the notice dated 13.4.2002. Further, it is clear that the petitioner has been in peaceful possession and enjoyment of the property for the past 30 years. Moreover, the respondent had himself given the possession certificate in favour of the petitioner, which goes to show that the petitioner was in possession for more than 12 years over the said site. As the notice given by the respondent is without any particulars with regard to the civil dispute, and as the said action initiated against the petitioner is not at the instance of the temple authorities, but at the instance of the 3rd party, whose interest is not mentioned, the said notice is liable to be set aside.

Having regard to the facts and circumstances of the case and having regard to the nature of the urgent impugned notice issued by the respondent, which is nothing but to harass the petitioner even after the petitioner got the possession certificate from the respondent himself, the impugned notice is set aside and the writ petition is allowed. No order as to costs.

12.7.2005

CVM

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this Tuesday the twelfth day of July, Two thousand and five.

REGISTRAR

To

1. The Mandal Revenue Officer,
   B. Matham Mandal, Cuddapah District.

2. 2 CCs to G.P. for Revenue, High Court buildings, Hyderabad (OUT)

3. 2 CD copies.